Supreme Court, U.S.
FILED

05-455 OCT 3 - 2005

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In the

Supreme Court of the United States

SFW ARECIBO, LTD., and FW ASSOCIATES, LTD.,

Petitioners,

v.

ANGEL D. RODRÍGUEZ, et al.,

Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the First Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Should the Court overrule *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City* to the extent it requires federal takings claimants to engage in state court litigation to ripen their claims for federal review, where four justices of this Court concluded in *San Remo Hotel v. City and County of San Francisco* that the state litigation rule has no plausible doctrinal basis and has had unanticipated and unacceptable results, including that of totally barring takings litigants from federal courts?

LIST OF PARTIES TO THE ACTION

Plaintiffs/ Petitioners:

SFW Arecibo, Ltd. and FW Associates, Ltd.

Defendants/Respondents:

Angel D. Rodríguez; Wanda Capó; Wanda Marrero; Frederick Muhlach, in his personal and official capacity as a member of the Planning Board of Puerto Rico; Fernando Félix, in his personal and official capacity as a member of the Planning Board of Puerto Rico; and Nelson Vélez, in his personal and official capacity as a member of the Planning Board of Puerto Rico.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Counsel for Petitioners is unaware of any parent corporation for Petitioners or any publicly held corporation owning 10 percent of the stock of the Petitioners.

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PETITION FOR WRIT OF CERTIORARI

SFW ARECIBO, LTD., and FW ASSOCIATES, LTD., respectfully petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the First Circuit.

OPINIONS BELOW

The Opinion on the First Circuit Court of Appeals is reported at 415 F.3d 135 (July 14, 2005); it appears as Exhibit A to the petition. The decision of the Federal District Court for the District of Puerto Rico is not reported; it appears as Exhibit B.

JURISDICTION

The judgment of the First Circuit Court of Appeals was entered on July 14, 2005. On September 2, 2005, this Court extended the time for filing this Petition until November 12, 2005. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISIONS AT ISSUE

The Fifth Amendment to the United States Constitution provides in pertinent part: "nor shall private property be taken for pubic use without just compensation."

STATEMENT OF THE CASE

This case involves a challenge to the rule, articulated in *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson County*, 473 U.S. 172, 195 (1985), that a federal takings claimant must litigate a just compensation claim in state court in order to ripen that claim for federal judicial review. This rule generally requires both regulatory and physical takings claims to be filed in a state court as an initial matter.

In last term's decision in *The San Remo Hotel v. City and County of San Francisco*, 125 S. Ct. 2491 (2005), the late Chief Justice William Rehnquist wrote for four justices of this Court in declaring that "[i]n an appropriate case," the Court should "reconsider" the rule that federal takings claimants "must first seek compensation in state courts." *Id.* at 2510 (Rehnquist, C. J., concurring).

In this case, two Puerto Rico property owners (the Property Owners) sued the Puerto Rico Planning Board (Board) for just compensation in federal court when the Board revoked a building permit after significant expenditures were made and foundations laid. The First Circuit Court of Appeals held that *Williamson County* barred the federal takings suit, concluding that the Property Owners' only recourse was to sue the Commonwealth of Puerto Rico in the Commonwealth's own courts. Exhibit A, at 6.

Determined to seek compensation for the frustration of their investment-backed expectations, but concerned about potential bias in local courts in favor of the Commonwealth, the Property Owners now seek to overturn the *Williamson County* rule that on its face requires them to sue in local court prior to filing in federal court, but which in practice absolutely precludes federal review.